

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

HOBART CORPORATION, *et al.*, :  
Plaintiffs,

v. :  
Case No. 3:13-cv-115

THE DAYTON POWER & LIGHT  
CO., *et al.*, :  
JUDGE WALTER H. RICE

Defendants.

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ORDER OVERRULING THE FOLLOWING MOTIONS WITHOUT  
PREJUDICE TO REFILING WITHIN 30 DAYS: PLAINTIFFS' MOTION  
IN LIMINE TO EXCLUDE INTERVIEW OF CLAY LOWE, A/K/A MR. C  
(DOC. #985); WASTE MANAGEMENT OF OHIO, INC.'S MOTION IN  
LIMINE TO EXCLUDE 2012 DEPOSITION TESTIMONY OF JAMES  
SOUTH (DOC. #988); DEFENDANT THE SHERWIN-WILLIAMS  
COMPANY'S MOTION IN LIMINE TO EXCLUDE CERTAIN EXPERT  
OPINIONS OF DR. JURGEN EXNER AND MR. RICHARD WHITE  
(DOC. #989); WASTE MANAGEMENT OF OHIO, INC.'S MOTION IN  
LIMINE TO EXCLUDE TESTIMONY OF EDWARD GALLAGHER FOR  
NCR CORPORATION (DOC. #992); WASTE MANAGEMENT OF  
OHIO, INC.'S MOTION IN LIMINE TO EXCLUDE TESTIMONY OF  
"UNKNOWN" FACT WITNESS FOR KELSEY-HAYES COMPANY  
(DOC. #993); DEFENDANT VALLEY ASPHALT CORPORATION'S  
MOTION IN LIMINE TO EXCLUDE TESTIMONY FROM RICHARD L.  
WHITE AND CHRISTOPHER M. WITTENBRINK (DOC. #996); AND  
DEFENDANT PHARMACIA LLC'S MOTION IN LIMINE (DOC. #997)

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During the conference call held on May 22, 2019, the Court instructed the parties to finish briefing any pending motions in limine that they believed should be resolved before the Court ruled on the pending motions for summary judgment. Thereafter, the parties also identified the following motions that need not be fully

briefed or resolved before the Court ruled on the pending motions for summary judgment:

- Plaintiffs' Motion in Limine to Exclude Interview of Clay Lowe, A/K/A Mr. C (Doc. #985);
- Waste Management of Ohio, Inc.'s Motion in Limine to Exclude 2012 Deposition Testimony of James South (Doc. #988);
- Defendant The Sherwin-Williams Company's Motion in Limine to Exclude Certain Expert Opinions of Dr. Jurgen Exner and Mr. Richard White (Doc. #989);
- Waste Management of Ohio, Inc.'s Motion in Limine to Exclude Testimony of Edward Gallagher for NCR Corporation (Doc. #992);
- Waste Management of Ohio, Inc.'s Motion in Limine to Exclude Testimony of "Unknown" Fact Witness for Kelsey-Hayes Company (Doc. #993);
- Defendant Valley Asphalt Corporation's Motion in Limine to Exclude Testimony from Richard L. White and Christopher M. Wittenbrink (Doc. #996);
- Defendant Pharmacia LLC's Motion in Limine (Doc. #997)

*See Docs. ##1021-26.<sup>1</sup>*

Given the length of time that these motions in limine have been pending without being fully briefed, and the fact that the Court's rulings on the motions for summary judgment may moot some of these motions in limine or necessitate some modification, the Court OVERRULES each of these motions in limine (Docs. ##985,

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<sup>1</sup> Plaintiffs' Motion in Limine to Exclude Testimony of Dr. Swiatoslav Kaczmar (Doc. #987), and Defendant Franklin, Iron & Metal Corporation's Motion in Limine to Exclude Expert Testimony of Exner [And] White (Doc. #1001), also included on this list, *see* Doc. #1025, are the subject of a separate Order.

988, 989, 992, 993, 996, 997) WITHOUT PREJUDICE to refiling within 30 days  
of the date of this Order.

Date: September 23, 2019

Walter H. Rice  
WALTER H. RICE  
UNITED STATES DISTRICT JUDGE